

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

HAROLD EDWIN KING,

Civil No. 16-0574 (JNE/FLN)

Plaintiff,

v.

ORDER

ZUMBRO HOUSE, INC.,

Defendant.

Plaintiff Harold Edwin King filed a complaint on March 7, 2016 alleging violations of his First Amendment rights by his former employer, Defendant Zumbro House, Inc., and applied to proceed *in forma pauperis*. Dkt. Nos. 1, 2. A case in which the plaintiff seeks to proceed *in forma pauperis* must be dismissed “at any time” if the court determines that the action fails to state a claim on which relief may be granted. 28 U.S.C. § 1915(e)(2)(B)(ii). Accordingly, on review of King’s Application to Proceed in District Court Without Prepaying Fees or Costs [Dkt. No. 2] and, concurrently, of the Complaint, the Honorable Franklin L. Noel, United States Magistrate Judge, ordered that King “must file an amended complaint and (if he intends to proceed *in forma pauperis*) an amended *in forma pauperis* application by no later than April 15, 2016, failing which [Judge Noel] will recommend that the action be dismissed without prejudice for failure to prosecute.” Dkt. No. 3. April 15, 2016 came and went, and King did not file an amended complaint and application as directed.

In a Report and Recommendation dated April 28, 2016, consistent with the prior order, Judge Noel recommended that the action be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. No objection to the Report and Recommendation was made. The Court has conducted a de novo review of the record. *See* D. Minn. LR 72.2(b).

Based on that review, the Court ADOPTS the conclusions and reasoning of the Report and Recommendation [Dkt. No. 4].

Based on the files, records, and proceedings herein, and for the reasons discussed above,

IT IS ORDERED THAT:

1. Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs [Dkt. No. 2] is DENIED.
2. This action is DISMISSED WITHOUT PREJUDICE.

Dated: June 16, 2016

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge